

AMENDED IN SENATE APRIL 29, 2015

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 617

Introduced by Senator Block

February 27, 2015

An act to add Section 19.5 to the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

SB 617, as amended, Block. Crimes.

Existing law defines crimes as infractions, misdemeanors, or felonies. Existing law provides that when a crime is punishable in the discretion of the court as a felony or a misdemeanor, it is a misdemeanor for all purposes if certain circumstances are met. Existing law provides that when a defendant is committed to the Division of Juvenile Justice for a crime that is punishable in the discretion of the court as a felony or a misdemeanor punishable by incarceration in a county jail not exceeding one year, upon discharge of the defendant from the division, the crime is a misdemeanor for all purposes.

This bill would ~~provide~~, subject to exceptions, ~~that allow~~ misdemeanors punishable by a maximum term of confinement not exceeding 6 months in jail ~~may~~ to be charged as a misdemeanor or an infraction, in the discretion of the prosecuting attorney, as specified. The bill ~~would provide that would~~, for a misdemeanor offense that is charged as an infraction under ~~those~~ *these* provisions, ~~make all of the statutory provisions of the~~ a misdemeanor offense, including fines or penalties, ~~are~~ applicable to the infraction ~~and would be imposed as if the offense were charged as a misdemeanor. The bill would prohibit a misdemeanor charged as an infraction pursuant to these provisions from being punished by imprisonment.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 19.5 is added to the Penal Code, to read:

2 19.5. (a) The Legislature finds and declares that there are
3 low-level misdemeanor offenses that, at the discretion of the
4 prosecuting attorney, and based on the facts of the committed
5 offenses, the lack of prior delinquency or criminality of the
6 offender, and the lack of the offender's need for supervision, can
7 be effectively prosecuted as infractions. The Legislature further
8 finds and declares that reducing these misdemeanors to infractions
9 will not compromise public safety, and that diverting low-level
10 misdemeanor offenders away from the criminal justice system and
11 the stigma associated with it will avoid costs associated with
12 protracted court involvement, jury trials, attorney representation,
13 confinement, and probation involvement.

14 (b) Except as provided by express statutory provisions providing
15 an alternative punishment or procedure, a crime punishable as a
16 misdemeanor with a maximum term of confinement not exceeding
17 six months in jail may be charged as a misdemeanor or an
18 infraction at the discretion of the prosecuting attorney.

19 (c) A crime charged as a misdemeanor shall not be reduced to
20 an infraction except at the discretion of the prosecuting attorney
21 pursuant to this section, or pursuant to express statutory provisions
22 providing an alternative punishment or procedure. The prosecuting
23 attorney may reduce the misdemeanor charge to an infraction
24 pursuant to this section at any time before trial.

25 (d) A person charged with an infraction that was reduced from
26 a misdemeanor pursuant to this section is subject to Section 19.6.

27 (e) All statutory provisions of a misdemeanor that is charged
28 as an infraction pursuant to this section, including, but not limited
29 to, fines and penalties, apply to the infraction and shall be imposed
30 as if the offense had been charged as a misdemeanor. *A*
31 *misdemeanor that is charged as an infraction pursuant to this*
32 *section is not punishable by imprisonment.*

33 (f) This section shall not apply to the following offenses:

34 (1) A misdemeanor firearms violation.

35 (2) A misdemeanor sex offender registration violation.

- 1 (3) A misdemeanor child endangerment or child abuse violation.
- 2 (4) A misdemeanor elder abuse violation.
- 3 (5) A misdemeanor domestic violence violation.
- 4 (6) A misdemeanor driving-under-the-influence violation.
- 5 (7) A misdemeanor sex offense.
- 6 (8) *A misdemeanor that is imposed by an initiative statute that*
- 7 *does not permit a lesser punishment.*

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